U/152 (3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CONTEMPT PETITION NO. 158 /2005

Single Bench

IN THE MATTER OF :-

M.A. NO.1090 /2003 BETWEEN

E. RAMENDRA RAO **APPELLANT**

VERSUS

BAJRANG LOHIA & ANR **RESPONDENTS**

APPLICANT : E. Ramendra Rao, son of Late E. Nageshwar Rao, aged about 47 years, resident of Link Road, Bilaspur

P.R. No. 3253/05
Presented by Shri B.P. Sharma
dated 22/12/05

Vs

NON-APPLICANT Nathmal Sharma, son of Not Known, Adult, resident of C/o Evening Times, Nehru Chowk, Bilaspur (C.G.)

PETITION UNDER SECTION 12 OF THE CONTEMPT OF COURTS ACT, 1973 READ WITH ARTICLE 215 OF THE CONSTITUTION OF INDIA.

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cont. Pet. No. 158/05 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	30-1-2006 Mr. B.P.Sharma, counsel for the petitioner. Heard on admission. While passing order in Miscellaneous Appeal No.1090/2003 on 18-11-2005, this Court observed that, in absence of compliance of Section 21 of the Arbitration and Conciliation Act, 1996 (henceforth 'the Act'), no arbitral proceeding commenced in the instant case, therefore, the arbitrator did not acquire any jurisdiction to pass any order under Section 17 of the Act. Now, it is alleged that, the arbitrator Nathmal Sharma has issued notice on 16-12-2005 to both the parties intimating that the case submitted before him is fixed for hearing on 20-12-2005. Learned counsel for the petitioner contended that, in absence of compliance of Section 21 of the Act, arbitral proceeding did not commence, therefore, the arbitrator does not acquire any jurisdiction to issue notice dated 16-12-2005, who willfully disobeying the directions of this Court has issued the said notice, therefore, his act is punishable under the Contempt of Courts Act, 1971 as well under Article 215 of the Constitution. Section 2(b) of the Contempt of Courts Act, 1971 defines civil contempt, which reads as below :- **Sec. 2** : "**Definitions**. – In this Act, unless the context otherwise requires, -	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cont. Pt. No. 158/05 —2— सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

(a) xxxxx xxxxx xxxxx;

(b) "civil contempt" means willful disobedience to any judgment, decree, direction, order, writ or other process of a court or willful breach of an undertaking given to a court;"

This Court in its order dated 18-11-2005 expressed its opinion regarding commencement of arbitral proceeding and holding that in the instant case the proceeding did not commence the order passed under Section 17 of the Act was without jurisdiction set aside the order. Both the parties to the arbitral agreement have been directed to raise disputes/objections before the arbitrator in accordance with law. No order or direction has been passed against the arbitrator. In my opinion, it cannot be held that, the arbitrator in any way has willfully disobeyed direction of this Court.

Therefore, the contempt petition filed by the petitioner deserves to be dismissed and is accordingly dismissed. However, the petitioner may avail other remedy if available under law.

Sd/-
V.K.Shrivastava
Judge